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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,091

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09/28/2009

EXAMINER

HOEL, MATTHEW D

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/649,091	Applicant(s) BAERLOCHER, ANTHONY J.	
	Examiner Matthew D. Hoel	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/10/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 57-59,61,64-76,78-93,117,121 and 126 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13,15,16,19-35,37-41,43-56,103 and 125 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1-13,15,16,19-35,37-41,43-59,61,64-76,78-93,103,117,121,125 and 126.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 to 4, 7 to 13, 15, 16, 19, 20, 22 to 35, 37 to 41, 43, 44, 47 to 54, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slomiany, et al. (U.S. patent 6,612,927 B1) in view of Olive (U.S. pre-grant publication 2002/0025849 A1).

4. As to Claims 1, 28, 47, and 103: Slomiany discloses all of the limitations of these claims, but lacks specificity as to a second plurality of second activatable symbol indicators associated with a second plurality of award symbols. Regarding typical slot machines such as those disclosed by Slomiany and Olive, the examiner is interpreting the award indicator to be the visible area of the plurality of the reels, typically three rows

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by five columns, as shown in the illustrations of both references; there are five reels from left to right and each reel has three symbols on it visible to the player for a 3X5 matrix award indicator. The examiner is interpreting symbol indicators as the rows of symbols on adjoining reels. The examiner is interpreting award symbols as the combination of symbols on a row of reels, each award symbol or combination of symbols on a row of reels having its own award delineated on a payable. The 3X5 window or award indicator remains static while the reels are in motion, so the symbol indicators move relative to the award indicators. Slomiany teaches a gaming device comprising at least one display device (3:27), at least one input device (3:30-33), at least one processor (3:23-25), and at least one memory device which stores a plurality of instructions (program, 4:30-32, memory device inherent in electronic gaming machine disclosed in 3:24-34), which, when executed by the at least one processor, cause the at least one processor to operate with the at least one display device and the at least one input device (3:24-34). Slomiany teaches a triggering event associated with play of a wagered-on game which leads to a subsequent stage in the game (3:35-40; player must win in the first slot game to move on to a subsequent slot game, so a subsequent slot game is a bonus game in this sense, 8:6-11). Slomiany displays an award indicator including a plurality of award symbols and a plurality of award associated with the award symbols (Figs. 1 to 3 showing five reels and three exposed symbols on each reel, for an award indicator comprising three rows by five columns, corresponding to 8:12-54, the symbol indicators being the rows delineated by the plurality of reels, the award symbols being the plurality of combinations of symbols the horizontal rows of the reels, Figs. 4 &

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5 corresponding to 9:29-36, the awards associated with the award symbols being the payouts for each respective winning payline or combination of symbols). Prior to any movement of any of the plurality of symbol indicators relative to the award indicator, Slomiany enables a player to pick one of the symbol indicators to activate the picked symbol indicator (player can select number of paylines to wager on and how much to wager on each payline, 9:20-28, this is done before the reels start rotating). Slomiany then causes a movement of the plurality of symbol indicators, and when the plurality of symbol indicators stops moving, causes he activates symbol indicators to indicate one of the award symbols on the symbol indicator (Fig. 10B, steps 189, 190, 191, 192a, 192b, 192c, 192d, 192e, for second stage of game, 12:25-30). Slomiany then provides a total award to a player based on the awards associated with the indicated award symbols (winning combinations displayed on activated paylines, Fig. 10C, steps 195, 197, 198, 199, 200, 12:31-36). Olive, however, teaches both traditional left-to-right paylines as well as right-to-left paylines (Para. 28). The reels or award or symbol indicators displaying the right-to-left paylines, are thus in the abstract, a second set of symbol activators associated with a second set of award symbols (being the right-to-left combinations). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the second symbol indicators and corresponding second set of award symbols taught by Olive to the gaming device of Slomiany. Having a second set of symbol indicators and a corresponding second set of award symbols is merely a duplication of structure already taught by Slomiany (MPEP 2144.04(VI)(B)). This combination would have an advantage in that it would provide

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players with further opportunities for increasing their winnings; these increased potential winnings would be offset to the house in that further wagers are required for the right-to-left paylines as described in Olive (Para. 28).

5. As to Claims 2 and 53: Olive teaches that the first award symbols and second award symbols are related (displayed on same set of reels, Para. 28).

6. As to Claims 3 and 43: Olive teaches that the first and second award symbols are related by their positions on the award indicator (Para. 28).

7. As to Claim 4: Slomiany uses a random number generator (18:8) to generate its outcomes, so its outcomes will always have the same average probability according to paytables such as Table 3 (Cols. 16 & 17).

8. As to Claims 7, 8, 29, and 30 : Slomiany in Table 3 (Cols. 16 & 17) teaches winning combinations of between 1 and 5 occurrences of any particular symbol. Olive's teachings of traditional left-to-right as well as right-to-left paylines as applied to Slomiany in the rejection of Claims 1, 28, 47, and 103 above would thus result in at least one or a plurality of the first and second awards being the same, as these paylines would be symmetrical in either direction.

9. As to Claims 9 and 31: Slomiany (45:48-46:5, Table 22) discloses every permutation of symbols A, B, and C in any order; thus, the paylines are all different from each other. The teachings of Olive as applied to Slomiany in the rejection of Claims 1, 28, 47, and 103 above will thus result in each of the first and second awards being different from each other as each of these different combinations will be evaluated both left-to-right and right-to-left.

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10. As to Claims 10, 11, 32, 33, 48, and 49: Slomiany teaches at least one of the first and second awards including a modifier being a multiplier (Fig. 4, all pays except for the scatter pay are multiplied by the number of coins per line bet, 9:20-28).

11. As to Claims 12, 34, and 50: Olive pays on both left-to-right and right-to-left combinations, so in the event both directions yield a winning combination, both will be awarded (Para. 28).

12. As to Claims 13, 35, and 51: Slomiany applies multipliers to the payouts based on how many coins are wagered on each payline (Fig. 4, 9:20-28). In the event of both right-to-left paylines of Olive (Para. 28) applied to the standard left-to-right paylines of Slomiany as discussed above, a product is applied to both the first and second awards.

13. As to Claims 15 and 37: Slomiany teaches that the display can be a touchscreen display (8:37).

14. As to Claims 16, 38, and 39: Slomiany teaches the use of a touchscreen to activate the paylines the player desires to wager on (8:33-55).

15. As to Claims 19, 20, 40, and 41: Olive teaches bonus symbols resulting in free activations (Para. 25).

16. As to Claims 22, 23, 44, and 54: Slomiany teaches at least two of the award symbols (and their respective reels) having the same average expected value (AAA, BBB, and CCC having the same probability of 0.00462963, Table 22).

17. As to Claims 24 & 25: Each of the horizontal rows (activated paylines) defined as symbol indicators above in the rejection of Claims 1, 28, 47, and 103 has an equal probability of having any combination of symbols appear on it, since the probabilities of

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Slomiany as outlined in Tables 1, 2, & 3 are based on how often each symbol appears on each reel or column.

18. As to Claims 26 & 27: Each award has a probability of being associated with each symbol indicator in Slomiany for the reasons outlined regarding Claims 23 & 24.

19. As to Claim 52: Slomiany teaches a plurality of award indicators (plurality of slot arrays, Figs. 3 & 6, 8:33-55, 10:8-18).

20. Claims 5, 6, 45, 46, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Slomiany and Olive in view of Morris, et al. (U.S. patent 5,324,035 A).

21. As to Claims 5, 6, 45, 46, 55, and 56: The combination of Slomiany and Olive discloses all of the limitations of Claims 5, 6, 45, 46, 55, and 56, but lacks specificity as to the average expected award being different in each indication of the award symbols or in a plurality of indications of the award symbols. Morris, however, teaches a pool of fixed outcomes that can be used in place of random number generators in slot machines (Abst., 5:33-40). There are a fixed number of outcomes in each pool of outcomes, each prize level has a fixed number of occurrences available in the pool of outcomes (Figs. 15 to 17: AAA (\$200) 4 times, AAB (\$150) 6 times, AAC (\$100) 8 times, AAD (\$50) 10 times, AAE (\$2) 50 times). The remaining number of occurrences for each prize level remaining after each game play are displayed to the player through the course of the game (6:31-48); the chances of each outcome occurring thus change on each game play and in a plurality of game plays as the outcomes in the pool are

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depleted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the average expected award changing on each indication and in a plurality of the indications as taught by Morris to the combination of Slomiany and Olive. Morris as discussed above is intended to be used in slot games such as those of Slomiany, as discussed above. The pools of fixed outcomes are examples of Class II games, which are allowed in jurisdictions where Class III games (based on probability such as slots, poker, or blackjack, typically requiring RNGs) are not allowed. The fixed pools of probabilities would have the advantage of allowing slot games to be played in jurisdiction where typical slot games using probability-based RNGs are not allowed, which would provide increased winning opportunities for players and more games which the casino or house is able to provide to the players. The display of remaining outcomes as described in Morris (6:31-48) would enhance player trust in the game, as the players would be able to see the remaining probabilities of any outcomes at any given time.

22. Claims 21 and 125 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Slomiany and Olive in view of Adams, et al. (U.S. pre-grant publication 2003/0114215 A1).

23. As to Claims 21 and 125: The combination of Slomiany and Olive discloses all of the limitations of Claims 21 and 125, but lacks specificity as to player selectable symbol inputs corresponding to the symbol indicators. Adams, however, discloses using a touch-sensitive screen with inputs corresponding to individual paylines allowing the

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player to wager on individual paylines (Para. 26, Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the individually selectable paylines of Adams to the combination of Slomiany and Olive. Slomiany analogously discloses allowing a player to use a touchscreen to select how many paylines will be wagered on based on the number of times the "select lines" button is pressed (8:33-55), but does not allow the player to wager different amounts on different paylines. Slomiany determines the amount wagered on each payline based on how much money is inserted by the player. The individually selectable paylines would have the advantage of allowing the player to wager as much on individual paylines as he or she sees fit, and not simply betting the same amount on each payline with the number of paylines wagered on determined by the number of times the "select lines" button is pressed.

Response to Arguments

24. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The previous 101 rejections are withdrawn. Upon further search and consultation after the applicants' written election (Gr. I), the examiner does not believe that moving the symbol indicators relative to the award indicator as presently amended would be allowable. Exactly what constitutes award symbols, symbol indicators, and award indicators has not been cited in the claims. Regarding typical slot machines such as those disclosed by Slomiany and Olive, the examiner is interpreting the award indicator to be the visible area of the

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plurality of the reels, typically three rows by five columns, as shown in the illustrations of both references; there are five reels from left to right and each reel has three symbols on it visible to the player for a 3X5 matrix award indicator. The examiner is interpreting symbol indicators as the rows of symbols on adjoining reels. The examiner is interpreting award symbols as the combination of symbols on a row of reels, each award symbol or combination of symbols on a row of reels having its own award delineated on a payable. The 3X5 window or award indicator remains static while the reels are in motion, so the symbol indicators move relative to the award indicators. The applicants' claim limitations as cited are abstract and functional and not directly tied to any particular electromechanical structures or any particular functional images displayed on a display screen. The examiner believes he is interpreting the claims as broadly as reasonable without reading the limitations of the specification into the claims. The examiner believes that the most likely source of amendments to possibly render allowable claims' is in the specification in Figs. 8A-C, 9, 10, 11, 12, and 13 and their corresponding descriptions in the specification. As mentioned previously, the examiner was not able to find this exact spinning globe-type device in the prior art search. The examiner respectfully disagrees with the applicants as to the claims' condition for allowance.

Citation of Pertinent Prior Art

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adams, et al. in U.S. patent references 2003/0114215 A1 and

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6,869,357 B2 teach randomly assigning paylines to a player; this could possibly be interpreted as randomly changing the highlighted paylines or symbol indicators relative to the plurality of reels or award indicator. Meyer in U.S. pre-grant publication 2002/0055382 A1 teaches randomly assigning paylines to a player. Caro in U.S. patent 5,636,838 A teaches two wheels that spin independently of, and relative to, each other; the player is able to wager on outcomes requiring stop positions from both reels (1:25-42, 4:55-60). Miyashita, et al. in U.S. patent 4,213,524 A teaches highlighting indicators, analogous to highlighted payline indicators, lit or highlighted in a rotating relative motion. Seibert, et al. in U.S. patent 6,174,234 B1 has teachings similar to Miyashita.

Conclusion

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

27. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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